REMARKS

Restriction to one of the following inventions has been required under 35 U.S.C. § 121.

I. Claims 1-17, drawn to binding assays to identify inhibitors of binding between viral and host cell proteins.

II. Claims 18-27, drawn to methods of treating influenza virus infection.

III. Claims 28-45, drawn to DNAs, vectors, and host cells relating to NPI-1 through NPI-6, and NS1I-1.

The Examiner contends that the above categories are directed to independent and distinct inventions. Within each of the three groups, the Examiner has also required election of a single disclosed species for prosecution on the merits.

Applicants hereby provisionally elect, with traverse, the invention of Group I, claims 1-17, drawn to binding assays to identify inhibitors of binding between viral and host cell proteins, and within Group I, Applicants hereby provisionally elect Species A, in which the host cell protein is NPI-1. Applicants respectfully request that the Examiner modify the restriction requirement so that Groups I and II are examined together, in which case Applicants hereby provisionally elect a single species within Groups I and II in which the host cell protein is NPI-1.

With respect to the Examiner's division of the invention into three groups, Applicants respectfully traverse. The individual groups of claims specified by the Examiner, as well as the designated species within each group, are not distinct inventions, but rather an intricate web of knowledge and continuity of effort which merit examination

in a single application or, at the very least, in groups larger than those specified by the Examiner.

Specifically, Applicants respectfully submit that the subject matter of the claims in Groups I and II particularly do not constitute distinct inventions. The claims in these groups all are drawn to methods of screening for inhibitors of the interaction between viral and host cell protein, and using such inhibitors for treatment of influenza viral infection. Indeed, were Applicants to elect Group I (drawn to screening assays for identifying compounds that inhibit binding between viral and host cell proteins) the required search necessarily would encompass the search of the claims in Group II, drawn to methods for treatment of influenza viral infection by inhibiting the binding between the viral and host cell proteins.

The M.P.E.P. § 803 states:

> If the search and examination of an entire application can be made without serious burden, the examiner >must< examine it on the merits, even though it includes claims to distinct or independent inventions (emphasis added).

Thus, in view of M.P.E.P. § 803, all the claims in Groups I and II, at the very least, should be examined together. Even if the subject matter of Groups I and II are distinct inventions, it would not be a "serious burden" on the Examiner to search Groups I and II in this application. Indeed, as Applicants have explained above, the burden of searching Groups I and II together would be no greater than the burden of searching Group I, alone.

In summary, Applicants have demonstrated that the subject matter of the claims of Groups I-III can be claimed in the same application or, alternatively, the restriction reduced to fewer groups of invention than those constructed by the Examiner.

Applicants submit that all of claims 1-45 should be searched and examined in the subject application or, alternatively, the restriction be modified so that claims 1-27 (Groups I and II) can be searched and examined together.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the requirement for restriction and the examination of all pending claims in a single examination. Alternatively, Applicants urge that the grouping of the claims be modified in accordance with the above explanation.

Respectfully submitted,

Date: JANUARY 13, 1997

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